

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

ERWIN B. HARRIS,

No. C 10-2691 WHA (PR)

Petitioner,

**ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL;  
INSTRUCTIONS TO CLERK**

vs.

GARY SWARTHOUT, Warden,

Respondent.

(Docket No. 15)

On June 10, 2011, the instant petition for a writ of habeas corpus was dismissed and a certificate of appealability was denied. Petitioner has filed a motion for appointment of counsel and a request for a certificate of appealability in the United States Court of Appeals for the Ninth Circuit. The clerk of the Court of Appeals received the motion and then sent it to this court. As the petition and certificate of appealability have already been denied, there is no need for appointment of counsel here, and the motion is DENIED.

Petitioner's request for a certificate of appealability is construed as a notice of appeal. The clerk shall transmit the file, including a copy of this order, to the Court of Appeals, which will rule on the request for a certificate of appealability. *See* Fed. R.App.P. 22(b); *United States v. Asrar*, 116 F.3d 1268, 1270 (9th Cir. 1997).

**IT IS SO ORDERED.**

Dated: July 14, 2011.

  
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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE